



101 Park Avenue, 17th Floor  
New York, NY 10178  
212.878.7900 212.692.0940  
[WWW.FOXROTHSCHILD.COM](http://WWW.FOXROTHSCHILD.COM)

PHILIP Z. LANGER  
Direct No: 212.878.1436  
Email: PLanger@FoxRothschild.com

August 16, 2024

**VIA EMAIL AND ECF**

**MEMO ENDORSED**

Honorable Katherine Polk Failla  
United States District Court  
Southern District of New York  
40 Foley Square, Courtroom 618  
New York, NY 10007  
[Failla\\_NYSDChambers@nysd.uscourts.gov](mailto:Failla_NYSDChambers@nysd.uscourts.gov)

**RE: Country Silk, Inc. v. Topgrade Products Inc. Case No. 1:23-CV-03435-(KPF)**

Dear Judge Failla:

This firm represents Defendant Topgrade Products, Inc. ("Defendant") in the above-referenced action. Today, Defendant filed its Motion for Partial Summary Judgment. See ECF Nos. 32-34.

Pursuant to Rule 9(A) and (B) of Your Honor's Individual Rules of Practice in Civil Cases, Defendant respectfully requests leave for the following documents to be filed under seal, or with redactions, because they contain information that Plaintiff designated as "Confidential – Attorneys Eyes Only" in this action, as follows:

- 1. Exhibit A to the Declaration of Timothy Matson, the Deposition Transcript of Plaintiff's President, Ben Harary (filed with a "SEALED" placeholder at ECF No. 33-1):** Defendant requests leave to file the deposition transcript under seal, because Plaintiff has designated the entire transcript as "Confidential – Attorneys Eyes Only", and Defendant is therefore required to file it under seal pursuant to

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Paragraph 12 of the jointly executed Confidentiality Stipulation and Protective Order So Ordered by Your Honor on August 24, 2023 (the "Order").

2. **Exhibit C to the Declaration of Timothy Matson, Plaintiff's Responses to Defendant's Requests for Admission (filed with redactions at ECF No. 33-3):** Defendant requests leave to file this document with the redactions reflected at ECF No. 33-3. The redactions relate to Plaintiff's product sales information and data, which Plaintiff has designated as "Confidential – Attorneys Eyes Only", and Defendant is therefore required to file it in redacted form pursuant to Paragraph 12 of the Order.
3. **Exhibit G to the Declaration of Timothy Matson, Plaintiff's Responses to Defendant's Interrogatories (filed with redactions at ECF No. 33-7):** Defendant requests leave to file this document with the redactions reflected at ECF No. 33-7. The redactions relate to Plaintiff's product sales information and data, which Plaintiff has designated as "Confidential – Attorneys Eyes Only", and Defendant is therefore required to file it in redacted form pursuant to Paragraph 12 of the Order.
4. **Exhibit H to the Declaration of Timothy Matson, Sales Information Produced by Plaintiff (filed with a "SEALED" placeholder at ECF No. 33-8):** Defendant requests leave to file this document under seal, because in producing the document, Plaintiff has designated it as "Confidential – Attorneys Eyes Only", and Defendant is therefore required to file it in redacted form pursuant to Paragraph 12 of the Order.
5. **Defendant's Memorandum of Law in Support of Motion (filed with redactions at ECF No. 34):** Defendant requests leave to file this document with the redactions reflected at ECF No. 34. The redactions have been placed over any deposition testimony or information that emanates from the foregoing Exhibits, which as noted above, Plaintiff has designated as "Confidential – Attorneys Eyes Only", and Defendant is therefore required to file in redacted form pursuant to Paragraph 12 of the Order.



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**6. Defendant's Local Rule 56.1 Statement of Material Facts (filed with redactions at ECF No. 34-1):** Defendant requests leave to file this document with the redactions reflected at ECF No. 34-1. The redactions have been placed over any deposition testimony or information that emanates from the foregoing Exhibits, which as noted above, Plaintiff has designated as "Confidential – Attorneys Eyes Only", and Defendant is therefore required to file in redacted form pursuant to Paragraph 12 of the Order.

The Order provides that "In filing Confidential or Confidential – Attorneys' Eyes Only Discovery Material with this Court, or filing portions of any pleadings, motions, or other papers that disclose such Confidential or Confidential – Attorneys' Eyes Only Discovery Material ("Confidential Court Submission"), the Parties shall publicly file a redacted copy of the Confidential Court Submission via the Electronic Case Filing System in accordance with Rule 9(B) of the Court's Individual Rules of Practice in Civil Cases. In accordance with Rule 9(C) of this Court's Individual Rules of Practice in Civil Cases, any Party that seeks to file Confidential or Confidential – Attorneys' Eyes Only Discovery Material under seal must file a letter motion seeking leave to file the same under seal." (ECF No. 18, p. 7, ¶12).

As noted above, this request for leave to file documents under seal or with redactions is in order to comply with Plaintiff's designations of information as "Confidential – Attorneys' Eyes Only." Therefore, Plaintiff defers to the Court on the ultimate determination as to whether these documents are appropriate for filing under seal and/or with redactions and will of course comply with the Court's instructions in this regard.

Pursuant to the Court's Individual Rules and Practices, this letter motion is being filed for public view, and the documents underlying this motion will be filed separately, under seal and without any redactions.

We thank the Court for its attention to this matter.



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Respectfully submitted,

*Philip Z. Langer*

Philip Z. Langer, Esq.

Application GRANTED. The Clerk of Court is directed to maintain docket entry 36 under seal, viewable to the Court and the parties only.

The Clerk of Court is further directed to terminate the pending motion at docket entry 35.

Date: August 19, 2024  
New York, New York

SO ORDERED.

A handwritten signature in blue ink that reads "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA  
UNITED STATES DISTRICT JUDGE